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MISSOULA, MT

2007 JAN 3 PM 4 28

PATRICK E. DUFFY

BY _____
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

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| IN RE: SUBPOENA ISSUED TO |) | MCV 06-23-M-DWM-JCL |
| MONTANA DEPT. OF HEALTH |) | |
| AND HUMAN SERVICES |) | |
| |) | |
| |) | |
| |) | ORDER |
| |) | |
| |) | |

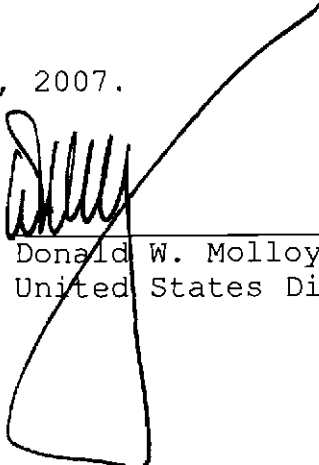
United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on December 6, 2006, in which he recommends that the Department's motion to quash be granted. The motion arises out of an ancillary discovery proceeding in the United States District Court for the District of Columbia, *Thomas Houlahan v. World Wide Association of Specialty Programs and Schools, et al*, CV 04-01161 (HHK).

Plaintiff Houlahan has not timely objected and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm

conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). I can find no clear error with Judge Lynch's recommendation.

Accordingly, IT IS HEREBY ORDERED that the motion (dkt #1) is GRANTED and Houlahan's non-party subpoena in the underlying action on the Department is QUASHED.

DATED this 3rd day of January, 2007.



Donald W. Molloy, Chief Judge
United States District Court